



European Patent Office  
Postbus 5018  
3200 HV Rijswijk  
NETHERLANDS  
Tel: +31 70 340 2040  
Fax: +31 70 340 3016



Pautex Schnelder, Nicole Véronique  
Novagraaf International SA  
25, Avenue du Palilly  
1220 Les Avanchets - Geneva  
SUISSE

Formalities Officer  
Name: Balaguer, Claude  
Tel: +31 70 340 - 0  
or call  
+31 (0)70 340 49 00

Substantive Examiner  
Name: Hermes, Lothar  
Tel: +31 70 340 - 3011

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26.05 : L.O.  
05.04.étude L.O.

Application No. 05 739 075.9 - 1247	Ref. BB 56 956	Date 26.02.2010
Applicant Panasonic Corporation, et al		

#### Communication pursuant to Article 94(3) EPC

The examination of the above-identified application has revealed that it does not meet the requirements of the European Patent Convention for the reasons enclosed herewith. If the deficiencies indicated are not rectified the application may be refused pursuant to Article 97(2) EPC.

You are invited to file your observations and insofar as the deficiencies are such as to be rectifiable, to correct the indicated deficiencies within a period

of 4 months

from the notification of this communication, this period being computed in accordance with Rules 126(2) and 131(2) and (4) EPC. One set of amendments to the description, claims and drawings is to be filed within the said period on separate sheets (R. 50(1) EPC).

Failure to comply with this invitation in due time will result in the application being deemed to be withdrawn (Art. 94(4) EPC).



Hermes, Lothar  
Primary Examiner  
For the Examining Division

Enclosure(s): 3 page/s reasons (Form 2906)  
D4: EP 0 490 400 A1

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Anmelde-Nr:  
Application No: 05 739 075.9  
Demande n°:

The examination is being carried out on the following application documents

**Description, Pages**

1-46 as originally filed

**Claims, Numbers**

1-6 filed with telefax on 28-02-2008

**Drawings, Sheets**

1/20-20/20 as originally filed

- 1 The following document was found in a further search (see Guidelines C - VI, 8.2 and 8.3). A copy of the document is annexed to the communication and the numbering will be adhered to in the rest of the procedure:  
**D4** EP 0 490 400 A1 (MATSUSHITA ELECTRIC IND CO LTD [JP])  
17 June 1992 (1992-06-17)
- 2 The applicant has filed six claims which can be split into two separate groups (claims 1-3 and claims 4-6, respectively). Any of the two groups comprises an independent claim to a recording method (claims 1 and 4), an independent claim to a recording apparatus (claims 2 and 5), and an independent claim to an integrated circuit (claims 3 and 6).
- 2.1 The second group of claims (i.e., claims 4-6) corresponds to claims 9-11 as originally filed. As set out in the International Preliminary Report on Patentability (c.f. item 2.8 of the explanations given on the "separate sheet"), these claims relate to essentially the same subject-matter as the first group of claims (i.e., claims 1-3, which correspond to claims 1, 7, and 8 as originally filed). The two groups of claims do not thus fall within any of the exceptional situations set out in paragraph (a), (b) or (c) of Rule 43(2) EPC. Consequently, the application does not comply with Art. 84 in combination with Rule 43(2) EPC, which stipulates that an application must in general not contain more than one independent claim in a particular category.
- 2.2 A similar argument applies to each of the two groups of claims in isolation. As set out above, each of the two groups of claims comprises a claim to a recording apparatus (claims 2 and 5) and a claim to an integrated circuit (claims 3 and 6). Claims to recording apparatuses and claims to integrated circuits belong to the same category ("product claim", c.f. Guidelines C-III, 3.1). Therefore, they must not be combined into one group of claims unless one of the exceptional situations of Rule 43(2) EPC applies. This is not the case here, however. In particular, the recording apparatus and the

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Application No.  
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corresponding integrated circuit are not regarded as a plurality of interrelated products in the sense of Rule 43(2)(a) EPC, because it seems that the recording apparatus actually includes the integrated circuit as the "drive control section". Therefore, rather than having two independent claims in the same category, one claim should be reformulated as a claim which depends on the other (see Rule 43(4) EPC and Guidelines C - III, 3.4).

- 2.3 In view of this non-compliance, the remaining part of this communication will focus on the first independent claim in each category, i.e., claims 1 and 2.
- 2.4 In the further prosecution of the application, failure to file an amended set of claims which complies with Rule 43(2) EPC, or to submit convincing arguments as to why the current set of claims does in fact comply with these provisions, may lead to refusal of the application under Article 97(2) EPC.
- 3 With regard to the requirements of Article 52(1) EPC, the following is noted.
- 3.1 The applicant has asserted that the "mapping table" mentioned in document D1 does not correspond to the "remapping table" recited in claim 1 (telefax of 28 February 2008, p. 1, last par.). More specifically, the applicant has argued that the entries of the known "mapping table" do not contain an original physical address and a remapped physical address, as shown in Fig. 9 of the present application (telefax of 28 February 2008, p. 2, II.1-2). However, the present claims do not actually require said entries to have this specific structure. To be precise, claim 1 defines an entry of a remapping table as *"remapping information which remaps an original address of the physical sector corresponding to the logical sector specified by the write instruction to a remapping address of the selected physical sector"* (c.f. step (c33) of claim 1). This definition reads on the second entry of "new table" depicted in Fig. 2 of D1, because this entry remaps an original address of a physical sector (the address at which the "old data" are stored) to a remapping address of the selected physical sector (the address at which the "new data" are stored). Therefore, it is maintained that D1 discloses the remapping table which is defined by the present claims.
- 3.2 The applicant has also put forward that D1 does not disclose the steps of *"verifying data after it is written to a physical sector, storing the data in a cache if the verification is unsuccessful, and writing the data in an unrecorded sector after other data to be written is verified"* (telefax of 28 February 2008, p. 2, par. 2). However, this sequence of steps is e.g., known from document D4 (Fig. 2, steps S19-S24; col. 4, l. 57 - col. 5, l. 38). The skilled person would apply these steps in order to improve the reliability and the speed of the write operation (D4, col. 5, ll. 46-57).
- In view of this obvious combination of documents D1 and D4, it is maintained that the subject-matter of claims 1 and 2 does not involve an inventive step within the meaning of Art. 56 EPC.

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- 4 It is still not apparent which part of the application could serve as a basis for a new, allowable claim.
- 4.1 Should the applicant nevertheless regard some particular matter as patentable, an independent claim should be filed taking account of Rule 43(1) EPC. The applicant should also indicate how the subject-matter of the new claim differs from the state of the art and the significance thereof.
- 4.2 The applicant is reminded that the features of the claims should be provided with reference signs placed in parentheses to increase the intelligibility of the claims (Rule 43(7) EPC). This applies to both the preamble and characterising portion (see Guidelines C - III, 4.19).
- 4.3 In order to facilitate the examination of the conformity of the amended application with the requirements of Article 123(2) EPC, the applicant should clearly identify the amendments made, irrespective of whether they concern amendments by addition, replacement or deletion, and indicate the passages of the application as filed on which these amendments are based (see Guidelines E - II, 1).

If the applicant considers it appropriate, these indications could be submitted in handwritten form on a copy of the relevant parts of the application as filed.

Dr. L. Hermes